

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

DENNIS GRAYSON,

Plaintiff,

File No. 2:07-CV-42

v.

HON. ROBERT HOLMES BELL

FERNANDO FRONTERA,

Defendant.

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**ORDER ADOPTING  
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

On April 2, 2007, United States Magistrate Judge Timothy P. Greeley issued a Report and Recommendation recommending that Plaintiff Dennis Grayson's complaint be dismissed pursuant to 28 U.S.C. § 1915(e)(2), 28 U.S.C. § 1915A, and 42 U.S.C. § 1997e(c) for failure to state a claim on which relief can be granted. Plaintiff filed objections to the R&R on April 17, 2007.

Pursuant to Rule 72(b) of the Federal Rules of Civil Procedure this Court is required to make a *de novo* review upon the record of those portions of the Magistrate Judge's disposition to which specific written objection has been made.

Plaintiff contends that contrary to the findings in the R&R, his allegations are sufficient to demonstrate that he had a serious medical need and that Defendant acted with deliberate indifference to those needs.

Upon review of Plaintiff's complaint, and accepting all of the facts alleged as true, the Court understands the substance of Plaintiff's complaint to be that although Defendant doctor concluded that the level of bacteria in Plaintiff's urinalysis did not warrant the need for antibiotics, a physician's assistant came to the opposite conclusion and started Plaintiff on antibiotics a few days later. The Court agrees with the Magistrate Judge that these allegations are not sufficient to allege a sufficient serious deprivation to support an Eighth Amendment claim. Accordingly,

**IT IS HEREBY ORDERED** that Plaintiff's objections to the Report and Recommendation of the Magistrate Judge (Docket # 6) are **DENIED**.

**IT IS FURTHER ORDERED** that the Report and Recommendation of the Magistrate Judge (Docket # 3) is **APPROVED** and **ADOPTED** as the opinion of the Court.

**IT IS FURTHER ORDERED** that Plaintiff's complaint is **DISMISSED** for failure to state a claim pursuant to 28 U.S.C. §§ 1915(e)(2), 1915A; 42 U.S.C. § 1997e(c).

**IT IS FURTHER ORDERED** that this dismissal shall count as a **STRIKE** for purposes of 28 U.S.C. § 1915(g).

Date: June 11, 2007

/s/ Robert Holmes Bell  
ROBERT HOLMES BELL  
CHIEF UNITED STATES DISTRICT JUDGE